

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

JENNIFER BLACKMORE
1891 Nottingham Lane
Wheaton, IL 60189,

and

ROBERT BLACKMORE
1891 Nottingham Lane
Wheaton, IL 60189

CIVIL ACTION NO. 19-CV-1049

Plaintiffs,

UNITEDHEALTHCARE INSURANCE COMPANY
c/o Corporation Service Company, Registered Agent
301 South Bedford Street, Suite 1
Madison, WI 53703

ABC INSURANCE COMPANY,
A fictitious insurance company,

Subrogated Plaintiffs,

v.

ANNIE'S ISLAND RENTALS, LLC
c/o Jannetje A. Petersen, Registered Agent
10534 S. Highland Road
Sister Bay, WI 54234,

ISLAND SERVICES, LLC
c/o Alida Anderson, Registered Agent
1440 Town Line Road
Washington Island, WI 54246,

DEF INSURANCE COMPANY,
A fictitious insurance company,

And

XYZ INSURANCE COMPANY
A fictitious insurance company.

Defendants.

COMPLAINT

NOW COME the Plaintiffs, Jennifer Blackmore and Robert Blackmore, by their attorneys, Crivello Carlson, S.C., and as and for a Complaint against the above named Defendants, hereby alleges and shows the Court as follows:

PARTIES

1. That the Plaintiffs Robert Blackmore and Jennifer Blackmore are husband and wife and adult individuals residing at 1891 Nottingham Lane, in the City of Wheaton, County of DuPage, State of Illinois.

2. That Subrogated Plaintiff UnitedHealthcare Insurance Company is a domestic insurance corporation with its registered agent located at 301 South Bedford Street, Suite 1, Madison, Wisconsin 53703. Said subrogated plaintiff may have made payments on behalf of Plaintiff for services rendered as a result of the incident which is the subject of this lawsuit. Plaintiff alleges doubt as to whether said subrogated plaintiff is truly subrogated or interested in this action; however, said subrogated plaintiff is joined as a party for the purpose of complying with the provisions of Wis. Stat. § 803.03.

3. Upon information and belief, an unknown insurance company, herein designated pursuant to Wis. Stats. § 807.12, by the fictitious name of ABC Insurance Company, may have provided certain medical benefits to the plaintiff, Jennifer Blackmore, as a result of the injuries described below. That the Plaintiff alleges doubt as to whether or not ABC Insurance Company is truly subrogated or interested in this action, but that said party is a subrogated plaintiff for the purpose of complying with the provisions of Sec. 803.03 Wis. Stats.

4. Upon information and belief, an unknown insurance company, herein designated pursuant to Wis. Stats. § 807.12, by the fictitious name of DEF Insurance

Company, may have provided a policy of liability insurance covering Defendant Annie's Island Rentals, LLC at the time of the accident at issue herein, and that by reason of said insurance policy and the alleged negligence of Annie's Island Rentals, LLC and the provisions of Wis. Stats. 803.04(2), is a proper party defendant herein.

5. That upon information and belief, Annie's Island Rentals, LLC, is a Wisconsin limited liability company with its registered agent located at 10534 S. Highland Road, Sister Bay, Wisconsin and is in the business of renting mopeds and other equipment for customer use on Washington Island, and rented the moped involved in the accident at issue in this matter to Plaintiff Jennifer Blackmore.

6. That upon information and belief, Island Services, LLC, is a Wisconsin limited liability company with its registered agent located at 1440 Town Line Road, Washington Island, Wisconsin and is in the business of renting mopeds and other equipment for customer use on Washington Island.

7. Upon information and belief, Island Services, LLC purchased the business of Annie's Island Rentals, LLC,, operates the business at the same location and utilizing the same assets in the business as Annie's Island Rentals, and may be liable for the accident at issue in this matter involving Plaintiff Jennifer Blackmore as a successor-in-interest.

8. Upon information and belief, an unknown insurance company, herein designated pursuant to Wis. Stats. § 807.12, by the fictitious name of XYZ Insurance Company, may have provided a policy of liability insurance covering Defendant Island Services, LLC, and that by reason of said insurance policy, the liability of Island

Services, LLC as a successor-in-interest to Annie's Island Rentals, LLC, and the provisions of Wis. Stats. 803.04(2), is a proper party defendant herein.

JURISDICTION AND VENUE

9. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332 because the matter in controversy exceeds in value \$75,000, exclusive of interest and costs and is between citizens of different states.

10. Venue in this Court is proper under 28 U.S.C. § 1391 because the accident giving rise to plaintiff's claims occurred in Door County, Wisconsin.

11. All conditions precedent to the filing of this action have been performed, excused, or waived.

FACTS

12. That on or about September 4, 2016, plaintiff Jennifer Blackmore, rented a 2009 Yamaha XC50 Moped (the "subject moped") from Annie's Island Rentals, LLC to use on Washington Island in Door County, Wisconsin, while on a family vacation.

13. As part of the rental of a moped, Annie's Island Rentals, LLC, provided operating instructions and training to Plaintiff Jennifer Blackmore on the operation of a moped.

14. Plaintiff Jennifer Blackmore was provided with a moped by Annie's Island Rentals, LLC, for training (the "training moped") and to become familiar with the operation and handling of the moped prior to renting the subject moped.

15. Plaintiff Jennifer Blackmore was instructed and trained by Annie's Island Rentals, LLC, on how to operate and handle the training moped before renting the

subject moped, and then upon leaving the Annie's Island Rental's facility, Jennifer Blackmore was provided with the subject moped, which was different from the training moped, and the subject moped handled and operated differently than the training moped Annie's Island Rentals, LLC provided to Jennifer Blackmore for her training.

16. That on or about September 4, 2016, Plaintiff Jennifer Blackmore was traveling on the subject moped provided by Annie's Island Rentals, LLC on Lobdell Point Road near Gordon Court in the Town of Washington, County of Door, State of Wisconsin, when suddenly and without warning, the moped she was operating became difficult to control, causing her to lose control and fall off the moped and become injured.

17. That the conduct of Defendant Annie's Island Rentals, LLC was ultimately a cause of the accident involving Plaintiff Jennifer Blackmore while she was operating the 2009 Yamaha XC50 moped, and that caused her to be injured.

18. That the conduct of Defendant Annie's Island Rentals, LLC in ultimately causing the accident involving Jennifer Blackmore has resulted in Annie's Island Rentals, LLC being liable for said accident, and upon information and belief, Annie's Island Rentals, LLC has passed any and all liability for the accident involving Jennifer Blackmore to its successor-in-interest, Island Services, LLC.

NEGLIGENCE OF ANNIE'S ISLAND RENTALS, LLC

19. That the Defendant Annie's Island Rentals, LLC, was negligent in the following respects:

- a. Failing to properly maintain and/or inspect the subject moped involved in the accident;

- b. Providing a moped during training that was different than the subject moped provided for actual operation on the island;
- c. Failing to warn of a weight limit on the subject moped involved in the accident that would make it unsafe for an operator;
- d. Failing to provide adequate instructions and/or training on the operation and handling of the subject moped involved in the accident; and,
- e. Renting a moped to a customer known to exceed the maximum weight limit for safe operation of the moped, among other negligent acts and omissions.

20. That as a direct and proximate result of the moped accident and the negligence of Annie's Island Rentals, LLC, the Plaintiff, Jennifer Blackmore, sustained multiple injuries, suffered great pain of body and mind, and incurred medical and hospital expenses, all to her damage in an undisclosed amount pursuant to Wisconsin Statutes.

21. Based on its negligent conduct, upon and information and belief, Annie's Island Rentals, LLC has passed any and all liability for the moped accident involving Jennifer Blackmore to its successor-in-interest, Island Services, LLC.

CLAIM OF ROBERT BLACKMORE

22. The plaintiff, Robert Blackmore, realleges as if set forth herein in full the allegations set forth in paragraph 1 through 20 above.

23. That as a direct and proximate result of the moped accident and the negligence of Annie's Island Rentals, LLC, the Plaintiff, Robert Blackmore, has suffered

the loss of his wife's society, companionship and consortium, and other compensable injuries and damages, all to his damage in an amount to be determined at a trial of this matter.

WHEREFORE, the Plaintiffs, Jennifer Blackmore and Robert Blackmore, hereby demand judgment against the Defendants as follows:

- A. Compensatory and other damages in an amount to be determined by the trier of fact;
- B. All of the costs, disbursements, and attorney's fees of this action; and
- C. Any other relief the Court deems just and equitable.

PLAINTIFFS HEREBY DEMAND A TRIAL BY A 12-PERSON JURY

Dated this 22nd day of July 2019.

s/ Donald H. Carlson
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